

REMARKS

Claims 49, 53 and 56 are amended. New claims 70-74 are added. The new claims are supported by exemplary embodiments of the originally-filed application at, for example, Fig. 27 and pages 18-19.

Claims 63-69 are allowed.

Claim 53 stands rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Claim 53 is amended to delete the alleged problematic language from the claim, and therefore, this rejection is rendered moot. The claim as amended is supported by exemplary embodiments of the originally-filed application at, for example, Figs. 26-27. Withdrawal of the §112 rejection against claim 53 is respectfully requested.

Claims 49-52 and 54-62 stand rejected under 35 U.S.C. §102(e) as being anticipated by Tsai et al., 5,712,185. Claim 53 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Tsai et al. and further in view of Applicant's Admitted Prior Art (AAPA).

Claim 49 is amended to recite a masking layer being substantially **a single uniform composition**. The amendment language is supported by exemplary embodiments of the originally-filed application at, for example, Fig. 27 and pages 18-19. To allegedly teach the masking layer recited in claim 49, the Examiner relies on Fig. 3E of Tsai to a silicon nitride layer 34A over a pad oxide layer 32A (pg. 3, para. 4 of paper no. 20050209). That is, the Examiner relies on two layers of Tsai to allegedly teach the masking layer recited in claim 49. In no fair or reasonable interpretation does a pad oxide layer 32A in combination with a silicon nitride layer 34A teach or suggest a

masking layer being substantially a single uniform composition as positively recited in claim 49. Accordingly, Tsai fails to teach or suggest a positively recited limitation of claim 49, and therefore, claim 49 is allowable.

Claims 50-55 and 70-71 depend from independent claim 49, and therefore, are allowable for the reasons discussed above with respect to the independent claim, as well as for their own recited features which are not shown or taught by the art of record.

For example, claims 50 and 51 recite oxidizing a semiconductive substrate to form an oxide beneath a first segment and **the oxide lifting the first segment** away from the semiconductive substrate. To allegedly teach these limitations, the Examiner relies on Tsai's teaching of growing an oxide 39 in a trench 38 of a semiconductor substrate beneath a previously formed pad oxide 32A and states the oxide 39 would inherently lift the pad oxide 32A from the substrate as taught by Applicant's admitted prior art (AAPA) at Fig. 5 and pg. 3, ln. 22 to pg. 4, ln. 5. However, the Examiner mischaracterizes Applicant's admitted prior art, and therefore, these rejections must fail.

Applicant's admitted prior art at Fig. 5 and pg. 3, ln. 22 to pg. 4, ln. 5 teaches a oxide layer 24 is grown in openings 20 of substrate 12, and as grown, extends from a previously formed pad oxide layer 14 (Fig. 4) and forms bird's beak regions 26 underlying a nitride layer 16. In no fair or reasonable interpretation does the AAPA teach or suggest that the grown oxide layer 24 affects the pad oxide 14, and more specifically, in no fair or reasonable interpretation does the AAPA teach that the grown oxide layer 24 **lifts** the pad oxide 14. Accordingly, it is inconceivable that the AAPA can be interpreted to inherently teach or suggest that the grown oxide 39 of Tsai **would lift the pad oxide 32A**, and therefore, the Examiner's stated alleged inherency teachings of

Tsai simply do not exist. The Examiner has failed to provide any teachings of the prior art to the positively recited limitations of claims 50-51, and therefore, claims 50-51 are allowable.

Regarding the rejection against claim 56 as being anticipated by Tsai, claim 56 is amended to recite a masking layer comprising a sidewall and forming a first segment of the sidewall substantially unchanged, the first segment comprising a length. Claim 56 further recites forming a second segment of the sidewall laterally spaced from and elevationally above the first segment, **the second segment comprising a length that is substantially equal to the length of the first segment**. The amendment language is supported by exemplary embodiments of the originally-filed application at, for example, Fig. 27 and pages 18-19.

To allegedly teach the masking layer recited in claim 56, the Examiner relies on Fig. 3E of Tsai to a silicon nitride layer 34A over a pad oxide layer 32A (pg. 3, para. 4 of paper no. 20050209). That is, the Examiner relies on two layers to allegedly teach the masking layer recited in claim 56. Moreover, the Examiner relies on a sidewall of pad oxide layer 32A of Tsai to allegedly teach the recited first segment and a sidewall of silicon nitride layer 34A to allegedly teach the recited second segment (pg. 3, para. 4 of paper no. 20050209). However, Tsai teaches that the second segment is substantially larger than the first segment. Therefore, it is inconceivable that Tsai teaches or suggests the second segment comprising a length that is

substantially equal to the length of the first segment as positively recited in claim 56.

Claim 56 is allowable.

Claims 57-62 and 72-74 depend from independent claim 56, and therefore, are allowable for the reasons discussed above with respect to the independent claim, as well as for their own recited features which are not shown or taught by the art of record.

This application is now believed to be in immediate condition for allowance, and action to that end is respectfully requested. If the Examiner's next anticipated action is to be anything other than a Notice of Allowance, the undersigned respectfully requests a telephone interview prior to issuance of any such subsequent action.

Respectfully submitted,

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